

EXHIBIT 3



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA

PLAINTIFF:

THE PEOPLE OF THE STATE OF CALIFORNIA

DEFENDANT:

SANTIAGO MONTENEGRO*

TYPE OF REPORT:

PRESENTENCE REPORT

FOR COURT USE ONLY

Address:

Santa Barbara County Jail

Hearing Date:

October 30, 1992,
8:30 A.M.

Action #:

SM-73867

Dept.:	Judge:	Defense Attorney:	Probation Officer:	Area Office:
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I	Zel Canter	David Ogren, PD	Kathleen Nunes	Santa Maria
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Arresting Agency:	Bail/OR/Custody:	Days Custody:	Guilty By:
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SMPD (09/04/91)	Custody	423 days (09/04/91 to 10/30/92)	Jury
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Drivers Lic. #/State:	SSN:	CII No.:	FBI No.:
N2683242/CA (suspended)	457-57-7887	A09905388	285209PA2

DOB:	POB: Mexico	Height:	Weight:	Hair:	Eyes:
02/02/56;					
09/18/64	Citizenship: Mexico	5'8"	145 lbs.	Brown	Brown

Race:	Scars/Tattoos:
Hispanic	Tattoos: "MLL" right forearm

Veh. Lic. #/State:	Veh. Year:	Make:	Model:	Style:	Color:
None					

Charged With:

187(a) PC (MURDER), a felony.

Enhancements Alleged: 1203.06(a)(1) PC (PERSONAL USE OF A FIREARM), a felony; 12022.5 PC (USE OF A FIREARM), a felony.

Convicted Of:

187(a) PC (MURDER), a felony.

Enhancements Found True: 1203.06(a)(1) PC (PERSONAL USE OF A FIREARM), a felony; 12022.5 PC (USE OF A FIREARM), a felony.

Co-Defendant(s): Disposition:

None N/A

Settlement Agreement: None

AKAS: Antonio Mora; Antonio Tijerena; Zefe Portillo; Ruben Acosta; Juan Ruiz Amaro; Antonio Martinez; Carmelo Sosa; Sergio Garcia; Mobis Martinez

1 THE OFFENSE:

2 Sources of Information:

3 Santa Maria Police Department Report #636392.

4 On November 13, 1985, Santa
5 Maria Police Officers responded to El Conquistador Bar, 210 S.
6 Blosser, Santa Maria, to investigate a shooting. Officers found
7 Antonio Hernandez Cardona, age 22, slumped in the right front
8 passenger seat of an automobile. Officers observed a gun shot
9 wound in the front of his neck, an ambulance was called and he
10 was taken to Marian Medical Center where he died at 2315 hours.
11 Doctors concluded the victim died as a result of a gun shot
12 wound to the anterior neck/chest, exiting through the back. A
13 second entry wound in the left shoulder revealed a .44 caliber
14 bullet. The victim was shot three times.

15 Investigation revealed the
16 victim was the alleged boyfriend of Liliana Beltran, and they
17 had been inside the El Conquistador Bar. Ms. Beltran left the
18 bar and went outside to the victim's car. The defendant
19 followed Ms. Beltran out to the car, sat down in the car and
20 tried to kiss her. The victim came out of the bar with two
21 friends, saw what was going on and pulled the defendant out of
22 the car. The victim and defendant verbally argued, the
23 defendant pulled a .44 magnum pistol from his waistband, and
24 fired three or four shots, killing the victim. The defendant
25 fled the area.

26 The defendant told officers
27 upon his arrest, he had hidden in a cardboard box in an alley
28 / / / / /

1 until day light, had been in Reedley, California, Tijuana,
2 Mexico and for the past two years had been living in Guadalupe.

3 PRIOR RECORD:

4 Sources of Information:

5 Records of CII, FBI and NCIC, DMV, local law enforcement,
6 Santa Barbara County Probation Department.

7 Prior Findings/Convictions:

8 05/08/92 23152b VC (DRIVING UNDER INFLUENCE .08 OR MORE),
9 misdemeanor, #C133546, five years Court
probation, jail. Named used: Santiago Garcia.

10 Additional Arrest Information:

11 None.

12 DEFENDANT'S STATEMENT:

13 On October 15, 1992, this
14 officer interviewed the
15 defendant at the Santa Maria Court Compound. The defendant
16 stated he is innocent of the charge. The defendant advised even
17 though the jury found him guilty, he does not know if he will be
18 sentenced to prison until his sentencing hearing. He told this
19 officer "if" he is sentenced to prison, he would like to be in a
20 prison close to this area so his mother and girlfriend can visit
21 him.

22 VICTIM'S INFORMATION:

23 Victim's Statement: This officer attempted to telephone
24 Josephine Hernandez, listed as sister
25 of the victim in the police report. No address available.
26 A message was left on a recorder to call this officer. No
one has called as of this date.

27 Restitution Information: It is respectfully recommended
28 the defendant be ordered to pay a
\$10,000 restitution fine pursuant to Section 1202.4 PC.

SOCIAL HISTORY:

Sources of Information:

The following information was obtained from the defendant.

1 Family History:

2 Father: Efrain Montenegro was born in Mexico and
3 works in Fresno, CA.

4 Mother: Susana Garcia resides in Guadalupe, CA.

5 Siblings: The defendant has one sister and four
6 brothers residing in Grover City and San
 Luis Obispo, CA.

7 Marital History: The defendant has never been married but
8 has been living for the past two years
 with Lupe Mendoza.

9 Children: None.

10 Education: The defendant completed four to five years of
 school in Mexico.

11 Employment/Financial Status:

12 Employment History: At the time of the defendant's
13 arrest, he was working as a
14 fish filleter at the Old Port Inn Fish Market, Avila
15 Beach, CA, earning \$6.00 an hour. He reports he also
16 worked in Fresno as a field worker in the grape crop.

17 Assets: None.

18 Debts: None.

19 Monthly Income: None.

20 Monthly Expenses: None.

21 Ability to Pay Fine/Restitution/Probation Fees:

22 The defendant does not indicate what fees he can pay.

23 Military: The defendant has never served in the Armed
24 Forces.

25 Medical History: The defendant states his health is good,
26 he has no disabilities, is not under a
27 doctor's care and has never sought mental health
28 counseling.

Abuse of Alcohol or Controlled Substances:

 The defendant began drinking at age 19 and drinks four or
 five beers a day. At times, he does drink hard liquor.
 The defendant has smoked marijuana, in the past, and denies
 use of any other drugs or narcotics.

Other Relevant Information:

The defendant does not have legal documentation to reside in the United States.

COLLATERAL INFORMATION:

Deputy District Attorney

Steve Plumer submitted the

following written statement:

"This is a Prop 8 serious felony in which defendant was convicted of murder, 2nd degree with personal use of a firearm per 1203.06 and 12022.5. Mandatory term for 2nd degree + 187 = 15 years. 12022.5 adds 2 years. Court has authority to strike the 12022.5 term per 1170(h) if it determines there are circumstances in mitigation and states reasons on the record. We are unaware of any such circumstances and recommend the full sentence of two years for the 12022.5 and 15 to life, consecutive."

Requests for information

were sent to the Deputy Public Defender and Santa Maria Police Department. At the time of this dictation, no response has been received. If one is received prior to the filing deadline, it will be included.

EVALUATION:

SENTENCING CONSIDERATIONS:

The Offense:

187(a) PC (MURDER, SECOND DEGREE), a felony

Sentencing Range: 15 years to Life

Enhancements/Special Allegations Alleged & Found True:

12022.5 PC (USE OF A FIREARM), a felony

Term: 2 years consecutive

1203.06(a)(1) PC (PERSONAL USE OF A FIREARM), a felony

Term: Mandatory State Prison

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Designated Sentence Length:

12022.5 PC: 2 years consecutive
 187 PC: 15 years to Life

Total Term: 17 years to Life

Discussion:

The defendant is now before the Court for sentencing on a charge of murder after being found guilty of the offense by a jury trial. Although the defendant was convicted by jury, he still contends he is innocent and does not believe he will be sentenced to prison until his sentencing date this month.

Circumstances of the offense indicate the defendant shot the victim in cold blood. The victim was not armed and the alleged dispute over a girlfriend does not justify a crime of this magnitude.

The defendant shows no remorse for his actions and he successfully eluded law enforcement officers for six years before being arrested, although he was living and working in the vicinity of the crime.

It is felt the defendant should be sentenced to State Prison in the consideration of justice and in the interest of protecting society. This is the only consequence justifiable for the crime of murder.

RECOMMENDATION:

It is respectfully recommended that probation be denied and that the defendant be committed to the Department

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1 of Corrections for a term of 17 years to Life and ordered to pay
2 a restitution fine in the amount of \$10,000 pursuant to Section
3 1202.4 PC and Section 13967 GC.

4 Respectfully submitted,

5 SUSAN J. GIONFRIDDO
6 CHIEF PROBATION OFFICER

7 Approved for filing:

8 STEPHEN C. GREEN
9 SUPERVISING PROBATION OFFICER

KATHLEEN NUNES
DEPUTY PROBATION OFFICER

10 I have read and considered
11 the foregoing report of the
12 Probation Officer.

13 JUDGE OF THE SUPERIOR COURT

14 KN:dm (montenegro.san)
15 Transcribed: 10/21/92
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SANTA BARBARA COUNTY PROBATION DEPARTMENT

CREDIT FOR TIME-SERVED WORKSHEETDefendant: SANTIAGO MONTENEGROCourt #: SM-73867(Custody time computations based on Offense(s): 187(a) PC
convicted offense)12022.5 PC

	Dates Served	Total Days Served	4019 PC Credits	Total Credit
COUNTY JAIL	09/04/91 - 10/30/92	423	105	528
DEPT. OF CORRECTIONS 1203.03 PC (Diag) CRC In-patient CRC Out-patient, prior to 07/01/77				
CALIFORNIA YOUTH AUTHORITY				
STATE HOSPITAL				
HALF-WAY HOUSE Rehabilitation Facilities Court-Ordered Treatment Facilities				
TOTAL CREDITS:		<u>423</u>	<u>105</u>	<u>528</u>

COMMENTS:

PRO-79 (Rev. 8/87)